



PLANNING COMMISSION SYNOPSIS

Wednesday, May 30, 2007

5:00 p.m. STUDY SESSION
Economic Development/Retail Strategy
Room # T-332

6:30 p.m. Regular Meeting

Council Chambers
City Hall Wing

200 East Santa Clara Street
San Jose, California

Xavier Campos, Chair
James Zito, Vice-Chair

Christopher Platten Ash Kalra
Randi Kinman
Matt Kamkar Lisa Jensen

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, May 30, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

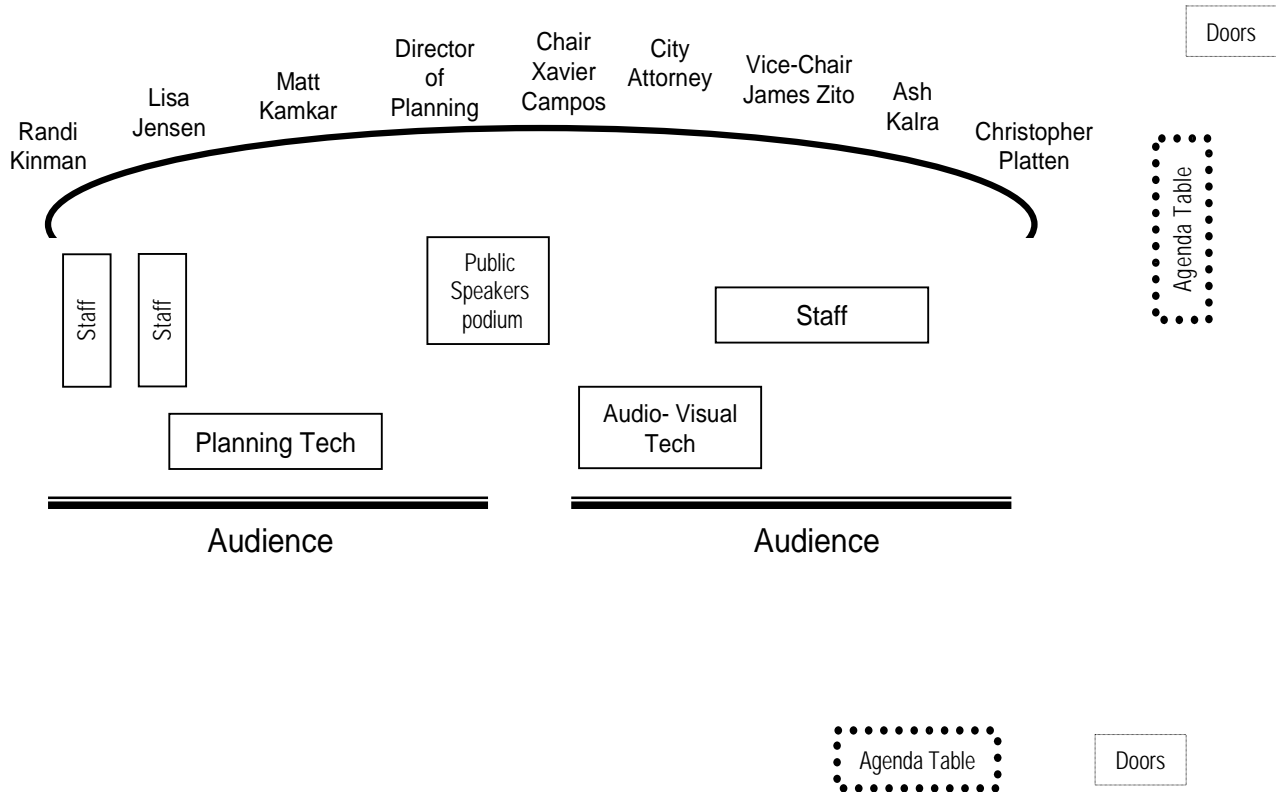
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website:

http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

All present

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. [CP06-072](#). Conditional Use Permit for a public eating, drinking, and entertainment establishment, sidewalk café, and late night use until 2:00 a.m. in the DC Downtown Commercial Zoning District, located on the west side of S. 2nd Street, approximately 70 feet north of East San Fernando Street (85 S. 2nd St.) (Cheung, Colin, Owner). Council District 3. SNI: None. CEQA: Use of Downtown Strategy Plan 2000 Final EIR. Deferred from 3-14-07 and 4-11-07.

DROPPED (7-0-0)

- c. [CP06-059](#). Conditional Use Permit to (1) convert 400 square feet of existing space from ancillary automotive use to retail use, (2) construct 328 square feet of new office/storage use; and (3) allow off-sale of alcoholic beverages on a 0.67 gross acre site in the CN Neighborhood Commercial Zoning District, located at the northwest corner of Cahalan Avenue and Santa Teresa Boulevard (6095 CAHALAN AVE) (YBM Inc., Owner). Council District 10. SNI: None. CEQA: Exempt.

DEFERRED TO 6-11-07 (7-0-0)

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **STREET VACATION** for a portion of the north side of Rock Avenue approximately 500 feet west of Oakland Road. Council District 3. CEQA: Exempt

APPROVED (7-0-0)

Commissioner Zito commented City could have option for additional revenue from a street to be vacated which could go through a “bidding” process.

- b. **CP06-061**. Conditional Use Permit to convert a 5,278 square-foot portion of an existing 16,375 square-foot building, to non-emergency ambulance service with living quarters on a 1.14 acre site in the IP Industrial Park Zoning District, located on the northerly Martinvale Lane, approximately 500 feet easterly of Santa Teresa Boulevard). Council District 2. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

Pulled from Consent Calendar by Commissioner Jensen. Staff commented that applicant had already occupied the site which staff report indicated was vacant based on earlier site check. In response to Commissioner Jensen, applicant explained types of Code 3 calls, siren testing parameters, disposal process for biowastes, and the operating procedures followed to maintain a clean site.

- c. **CP07-017**. Conditional Use Permit to allow a child daycare center (pediatric center for the care of children with medical conditions) in an existing building on a 0.72 gross acre site located on the northeast corner of Roy Ave and Lincoln Avenue approximately 440 feet south of Curtner Avenue (2288 Lincoln Avenue) in the CP Pedestrian Commercial Zoning District (Castello Joseph V Trustee & Et Al, Owner; Waldo Enterprises, Llc Mr Bill Giachino, Developer). Council District 6. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

The following items are considered individually.

4. PUBLIC HEARINGS

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. [CP07-010/ABC07-003](#). Conditional Use Permit and Determination of Public Convenience and Necessity to allow the off-sale of alcoholic beverages at a grocery store on a 0.83 gross acre site in the CN Neighborhood Commercial Zoning District, located on the west side of Monterey Road, 250 feet southerly of Lewis Road (2951 Monterey Rd.) (Lexus Investments – William Hirschman, owner). Council District 7. SNI: None. CEQA: Exempt.

APPROVED (6-1-0; JENSEN OPPOSED) WITH A MAXIMUM OF 10 PERCENT OF THE FLOOR AREA TO BE DEDICATED TO ALCOHOL SALES.

Lieutenant Hober of the Police Department explained concern with a new off-sale outlet with 12 already in one mile on Monterey Road. Applicant stated he has existing store on Winchester forced to close by property sale, with no issues at location. In response to Commissioner Kalra, applicant stated business couldn't afford new lease without liquor sales. In response to Commissioner Zito, applicant stated new store is market, not liquor store, and only 20 linear feet for alcohol sales.

Applicant commented new shopping center is high quality in area of change, and in response to Commissioner Kalra stated "family-run" business. Property owner clarified conditions in lease agreement to maintain site in good order.

Chair Campos stated his support for small grocery stores and asked if produce would be sold, and applicant stated he would test market and might sell "singles" of beer and wine.

After confirming applicant could live with condition, Commissioner Zito moved approval with limit of ten percent of floor area devoted to alcohol sales. Commissioner Jensen thanked Lieutenant Hober, stated high crime area and stated wouldn't support motion. Commissioner Kalra stated family run business and operator not part of larger problem and could be a solution, and Chair Campos agreed stating this use is most like a small grocery store.

- b. [PDC06-038](#). Planned Development Rezoning from the IP-Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.2 gross acre site (3300 Zanker Road), located on the southeast corner of Zanker Road and River Oaks Drive (Irvine Apartment Communities, property owner and developer). Council District: 4. SNI: None. CEQA: Addendum to the Final Environmental Impact Report for the North San José Area Development Policies Update.

DEFERRED TO 6-27-07 (7-0-0)

One member of the public spoke to request deferral of the item to later in the month because

item was scheduled for June 5, 2007 Council meeting when residents would be voting for their Councilmember, not enough community outreach had occurred, and because District 4 had not had a Council representative to participate in many months.

The Commissioners confirmed that if deferred, this item would return to the Planning Commission and City Attorney confirmed unless deferred more than 60 days. Commission approved approximately 30 day deferral to June 27, 2007.

- c. **PDC03-108.** Planned Development Rezoning from A(PD) Planned Development Zoning District on 101-acres, IP-Industrial Park Zoning District on 19-acres and A-Agriculture Zoning District on .76-acres to A(PD) Planned Development Zoning District to allow up to 2,818 residential units and up to 365,622 square feet of commercial/industrial uses on an approximately 120 gross acre site, located on both sides of Berryessa Road, between the Union Pacific Railroad Right-of-Way to the east and the Coyote Creek to the west, north of Mabury Road. (1590 BERRYESSA RD) (The Flea Market Inc, Owner/ Developer). Council District 4. SNI: None. CEQA: Environmental Impact Report

DEFERRED TO 7-18-07 (4-3-0; KAMKAR, JENSEN AND KINMAN OPPOSED)

Request from community member for deferral of item to allow more public input, and to await results of Council District 4 election on June 5, 2007. Commission discussion regarding deferral noted significant number of speakers in the room to speak on item. Motion to defer to July 18th hearing made under Deferrals portion of agenda failed 3-4, with Commissioners Kamkar, Jensen, Zito and Kinman opposed, leaving item to be heard in agenda order.

Planning and Public Works staff made brief presentations summarizing project chronology and outreach efforts and project changes over time. Erik Schoennanuer representing the applicant, explained project did not rely on, but rather accommodated BART. Speakers from area and vendors from project site raised concerns future of Flea Market and its importance to San Jose saying it should be relocated, the potential for phasing the project, insufficient open space in the new plan, and need for more time for community input. Speakers from Housing Action Coalition, Silicon Valley Chamber of Commerce, expressed support for more housing and highlighted benefit to BART project funding if approved near future station. District 4 candidate Kansen Chu requested Commission defer the project until after new Councilmember is seated.

Chair Campos commented Commission could not provide assurance that Flea Market would be relocated, but Council could have more options. Commissioner Kalra asked for information on the number of vendors.

Applicant noted green building measures could happen at PD permit stage, that City Manager's Office involved with exploring options for relocation, that 31% of site is open space and creek, and confirmed BART was not assumed so requirements are for scenario without BART. He stated new District 4 Councilmember likely to be seated by June 19th so deferral not necessary. In response to Commissioner Kalra, applicant stated initial conversations with non-profits although no affordable housing requirement, and with wide range of housing options in future, some should be affordable. In response to Commissioner Zito, applicant stated Flea Market would need minimum 75 acres to retain uses and parking of today, but smaller might be possible as site develops.

In response to Commissioner Jensen, applicant stated too soon for commitment on green buildings since not at design stage, and detailed list of community meetings for vendors and

stated requirements for creek and riparian would occur at PD permit stage. Chair Campos stated attendance better by community for project meetings in recent years. Commissioner Kamkar stated good project, only issue displacement of market and City should do all it can to maintain. Applicant noted guarantee of 1 year or more notice before Flea Market would close.

Commissioner Kinman asked if trail would be piecemealed and applicant noted no trails on either side so initially would be isolated.

Commissioner Zito asked about outreach to other Council Districts and applicant responded 1000 foot radius mailing included some District 3 and 5 residents and Director of Planning stated Area Development Policy would be initiated at Council with broader community process to focus on Mabury/U.S. 101 interchange and other transportation issues. The Director explained Flea Market project is fully mitigated but smaller area projects need Policy.

Chair Campos and Commissioner Zito asked about school impacts, and particularly high school impacts which weren't addressed and staff noted District had not commented. Staff stated 56 high school students expected with capacity for them at Independence High.

Chair Campos asked if triggers could be put on project if BART doesn't occur and City Attorney stated triggers would need to relate to timing of impacts but this project can occur without BART. Director Horwedel commented this site likely would have been selected for higher density housing even without BART. Staff clarified VTA threshold for BART is 3850 units in area and that with this approval, area would have over 4000.

Commissioner Kalra noted EIR addresses project without BART, and Landmarks Commission opposed demolition and asked what steps City had taken. Director Horwedel stated not City's responsibility to protect private business and City would try to facilitate relocation but not required and City Manager's Office has lead, and has contacted County regarding Fairgrounds. Staff noted partial mitigation for historic resource loss shown in EIR.

Commissioner Platten moved staff recommendation with 1) a recommendation Council defer action until new Councilmember seated, and that 2) City take all possible steps to facilitate Flea Market relocation.

Commissioner Jensen stated Flea Market is treasure and she is confident staff will work with applicant to relocate Market, and incorporate green building techniques. Director Horwedel clarified that parkland dedication would be commensurate with development as it occurred.

In response to Commissioner Zito, Public Works staff explained trip counts based on proposed housing types, not on BART ridership. Commissioner Kinman suggested commercial development should phase in before housing to deliver revenues. Staff responded already interest in shopping center and BART-related commercial would be years. City Attorney and Director explained phasing could be option of legislative act by Council to account for "gap" in loss of Flea Market and new commercial coming on line.

In response to Commissioner Kinman, Dave Mitchell, Parks Department, explained park requirements and review of proposed open space. In response to Commissioner Kalra, staff commented virtually all traffic mitigations would need to be in place, no phasing needed, and applicant interested to keep Flea Market operating as long as possible. Manuel Pineda noted although BART won't run until 2016, construction could start 2010 and many steps like acquisition starting soon.

Director Horwedel said GP Update would need to locate sites for 300,000 new residents and this is good site with likely BART. Commissioner Kalra said more emphasis needed to move Flea Market, even spending 60 more days appropriate and proposed 60-day deferral.

City Attorney indicated deferral motion took precedence over prior motion to approve and Commissioner Zito restated motion to defer to July 18, 2007 to further clarify relocation program, implementation of green building proposals, possible Inclusionary zoning, further dialogue with high school district and allow seating of new Councilmember.

Motion to defer to July 18 carried 4-3, with Commissioners Kamkar, Jensen and Kinman opposed.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

1. Responding to statements made or questions posed by members of the public; or
2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda.

Nanci Klein from the Office of Economic Development asked the Commission if it would reconsider deferral of item 4.b. to June 27, 2007 which would be financially difficult for applicant. No Commission action was taken.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

7. GOOD AND WELFARE

- a. Report from City Council

- 1) *Morse Street Zoning approved by Council*
- 2) *Update on Foster Towers GPA to be heard by Council*

- b. Commissioners' reports from Committees:

- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).
New monitors on hold. Retreat in August. 747 landed – first since 1971
- Coyote Valley Specific Plan (Platten)
Task force emails to be forwarded to Planning Commission members, changes to recommendation based on EIR underway, plan hopefully to Planning Commission by end of year
- Parks Funding Subcommittee (Zito)

Next meeting early June, statement about accomplishments to Parks Commission and request for direction

c. Review of synopsis

Synopses for May 2 and May 16 to be reviewed on June 11, 2007

d. Consider study session dates and/or topics

Commissioner Jensen had 3 suggestions:

- 1) sustainable – Green, what’s possible, what’s done already, Legislation, Projects have experienced cost savings*
- 2) Conditions for projects, how to best modify based on EIR – mitigations – Permit Stage is outside of Planning Commission role*
- 3) Inclusionary housing policies undergoing revisions*

Chair Campos - new commissioners need training on protected intersections

Commissioner Kamkar - 5 minutes on how to read staff reports, especially front cover

8. ADJOURNMENT

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	T-332
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers